

PLANNING COMMISSION MINUTES

July 10, 2002

CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Eric Johansen, Dan Maks and Shannon Pogue. Planning Commissioner Gary Bliss was excused.

Senior Planner John Osterberg, Associate Planner Liz Shotwell, Associate Planner Scott Whyte, Transportation Planner Don Gustafson, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

VISITORS:

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Staff indicated that there were no communications at this time.

OLD BUSINESS:

Chairman Voytilla opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **CONTINUANCES:**

2

3 **A. MONTAROSA SINGLE-FAMILY SUBDIVISION**

4 The proposed development site is generally located on the east side of SW 155th
5 Avenue, south of SW Beard Road and north of SW Weir Road. The development
6 site is addressed as 9800 and 9710 SW 155th Avenue and can be specifically
7 identified as Tax Lots 700, 800, 900 and 901 on Washington County Assessor's
8 Tax Map 1S1-29DC. The affected parcels are zoned Urban Standard Density
9 (R5) and together total approximately 4.9 acres in size.

10

11 **1. SB2002-0004 (Montarosa Single-Family Subdivision)**

12 *(Continued from June 26, 2002)*

13 The applicant requests Preliminary Plat Subdivision approval for the
14 subject site. The proposed subdivision will allow for the creation of 24
15 individual lots for single-family dwellings (including two existing single-
16 family dwellings), two (2) open space tracts (one (1) for water quality
17 detention), and four (4) public street connections. The Planning
18 Commission will review the applicant's proposed Preliminary Plat
19 Subdivision together with the associated request for Tree Preservation
20 Plan approval (TPP 2002-0001) and Flexible Setback approval (FS 2002-
21 0009) as described herein. In taking action on the proposed Preliminary
22 Plat Subdivision application, the Commission shall base its decision on the
23 approval criteria thereof, listed in Section 40.35.15.3.C. of the
24 Development Code.

25

26 **2. TPP2002-0001 (Montarosa Single-Family Subdivision Tree**
27 **Preservation Plan)**

28 *(Continued from June 26, 2002)*

29 Associated with the Montarosa Single-Family Subdivision project is a
30 separate request for Tree Preservation Plan (TPP) approval, Case File No.
31 TPP 2002-0001. The proposed application for TPP will affect two
32 existing groves of trees identified by the City's Tree Inventory as
33 Significant Groves G-80 and G-82. The proposed development plan
34 would remove several trees considered part of groves G-80 and G-82
35 while retaining others. The Planning Commission will review the
36 applicant's tree preservation plan together with the overall design of the
37 associated development. In taking action on the proposed TPP
38 application, the Commission shall base its decision on the approval criteria
39 thereof, listed in Section 40.75.15.1.C.3. of the Development Code.

40 **3. FS2002-0009 (Montarosa Single-Family Subdivision Flexible Setback)**

41 *(Continued from June 26, 2002)*

42 Also associated with the Montarosa Single-Family Subdivision project is a
43 separate request for Flexible Setback (FS) approval for proposed Lots 6,
44 9, 10, 11 and 14 (Case File No. FS2002-0009). The proposed Flexible
45 Setback will allow for a reduction to the northern front yard setback from
46 the required 20-foot setback to the proposed 10-foot setback for proposed

1 Lots 9, 10, 11 and 14, and t allow for a 10.97-foot setback for the existing
2 house to be retained on proposed Lot 6. The Planning Commission will
3 review the applicant's Flexible Setback application together with the over
4 all design of the associated development. In taking action on the proposed
5 FS application, the Commission shall base its decision on the approval
6 criteria thereof, listed in Section 40.15.15.1.C. of the Development Code.

7
8 Commissioners Johansen, Barnard, Pogue and Maks and Chairman Voytilla
9 indicated that they had visited the site and had no contact with any individual with
10 regard to this proposal.

11
12 Associate Planner Liz Shotwell presented the Staff Reports, observing that the
13 subdivision proposal consists of three separate applications (Subdivision, Flexible
14 Setback and Tree Preservation Plan), all of which will be considered at this time.
15 She pointed out that concurrent with this request, the applicant has also submitted
16 two separate applications for a 56-unit townhome project to be located
17 immediately to the north of this project, adding that while both projects were
18 submitted with the Montarosa name, the applicant is presently referring to this
19 single-family portion as Polomar. She mentioned that the Board of Design
20 Review would review the Tree Preservation Plan and Type 3 Design Review for
21 the multi-family project at their meeting on July 11, 2002. Emphasizing that
22 these are separate applications and projects, she pointed out that some of the
23 elements of the applicant's materials, such as the Traffic Study, address both
24 proposals.

25
26 Ms. Shotwell mentioned that the Planning Commission would review only the
27 three applications for the single-family development, adding that the applicant
28 proposes 24 single-family lots within a subdivision designed to preserve two of
29 the single-family homes that exist on the site. She mentioned that the applicant
30 also proposes flexible setback approval for five of the lots within the
31 development, noting that this would allow them to preserve the existing single-
32 family homes and provide for tree preservation.

33
34 Referring to Development Code Section 40.15.15, Ms. Shotwell pointed out that
35 because they were submitted concurrently, the applications for both the sub-
36 division and flexible setback would be considered by the Planning Commission at
37 this time. Observing that the Tree Preservation Plan provides for the removal of
38 183 trees to accommodate this proposal, she explained that these trees involve
39 two groves listed within the City of Beaverton's Significant Tree Groves. She
40 discussed the Tree Mitigation Plan submitted by the applicant, noting that this
41 plan provides for the planting of 101 Douglas Fir trees as mitigation measures
42 with regard to the proposed removal of the 183 trees. She entered into the record
43 a letter from Yongzhong Lian, dated May 19, 2002, objecting to the Montarosa
44 Single-Family Subdivision. Concluding, she recommended approval of all three
45 applications and offered to respond to questions.

46

1 Pointing out that he has no concerns with regard to the flexible setback, the SB,
2 Commissioner Maks referred to page 6 of 27 of the Staff Report for SB 2002-
3 0004, expressing his agreement that the proposed improvements along SW 155th
4 Avenue are not proportionate to the application and requesting an explanation of
5 staff's purpose with regard to this issue.

6
7 Ms. Shotwell deferred Commissioner Maks' request to Transportation Planner
8 Don Gustafson, who stated that the consultant had been requested to prepare a
9 response with regard to the proposed improvement on SW 155th Avenue along
10 with the Traffic Study, adding that due to the City's preliminary design for this
11 improvement, the applicant is unable to improve only their half of the street. He
12 explained that the Traffic Consultant had prepared a document with regard to the
13 developer's financial responsibility, based upon the traffic that would be added to
14 the street due to this development.

15
16 Commissioner Maks questioned the origin of the idea of the Local Improvement
17 District (LID), observing that a Traffic Impact Fee (TIF) credit would be received
18 for improvements on SW 155th Avenue. He noted that because a Waiver of
19 Remonstrance would be submitted with regard to forming an LID, at some future
20 point, the homeowners would be taxed for the improvements.

21
22 Mr. Gustafson advised Commissioner Maks that the Development Code provides
23 the option to request either the TIF or the improvement. He clarified that the
24 Waiver of Remonstrance provides that a developer is not able to oppose the LID,
25 adding that he is not certain whether this developer would have any future
26 standing with regard to their previous payment of the TIF.

27
28 Commissioner Maks pointed out that the City of Beaverton does not have a great
29 history with regard to LIDs.

30
31 Mr. Gustafson expressed his opinion that the key issue is if the developer opposes
32 this LID at some future point, there might be sufficient opposition that this
33 improvement would not occur.

34
35 Chairman Voytilla expressed his concern that the implication and risk here
36 involves the fact that there is essentially a potential for a double payment for the
37 improvement, emphasizing that because he lives in a subdivision where this
38 actually occurred, he is aware that this is possible.

39
40 Commissioner Maks noted that the TIF fees are supposed to pay for the collector
41 and arterial systems.

42
43 Commissioner Johansen pointed out that TIF fees also fund capacity
44 improvements to the overall system, observing that this situation is dealing with a
45 substandard road that might be improved through an LID at some future point.

46

1 Commissioner Maks pointed out that proportionality must be defined with regard
2 to what is proportionate for this subdivision for improvements to SW 155th Ave-
3 nue, which would be funded through TIF fees. He expressed his opinion that it is
4 questionable whether the TIF fees are adequate and being utilized appropriately.

5
6 Mr. Gustafson observed that the TIF fees have been effective and utilized since
7 the 1970's, expressing his opinion that this would not allow for an LID.

8
9 Commissioner Maks explained that an LID is an assessment on the property
10 owners.

11
12 Chairman Voytilla suggested that it might be appropriate to identify this
13 subdivision as being removed from any LID to make certain that there would be
14 no potential for a double payment.

15
16 Observing that this is a legal issue, Mr. Gustafson pointed out that every
17 development pays TIF fees.

18
19 Referring to the Tree Preservation Plan, Commissioner Maks requested
20 clarification of where Development Code Section 40.75.15.1.C.2.b is addressed.
21 He specifically questioned where the applicant has provided documentation that
22 preservation of a portion of this grove would reduce the total amount of lots or
23 units allowed or increase the cost of utilities by five percent.

24
25 Ms. Shotwell advised Commissioner Maks that the applicant had not specifically
26 addressed the five percent issue, adding that there has been discussion with staff
27 with regard to the definition of the five percent, specifically whether this indicates
28 five percent of the proposal or five percent of the total maximum density that
29 would be allowed on the site, which would be approximately 42 units, as opposed
30 to the 24 units that have been proposed.

31
32 Commissioner Maks emphasized that this must be related to the maintenance of
33 trees, pointing out that if this can't be demonstrated, five percent of the trees that
34 have been identified as significant must be preserved. Observing that he would
35 actually address this further with the applicant, he noted that the application is for
36 the preservation, not the replacement, of trees. He pointed out that this plan does
37 not address tracts, adding that it has been repeatedly proved that tracts work for
38 the preservation of trees.

39
40 Ms. Shotwell informed Commissioner Maks that the tract issue has been
41 discussed in great detail with the applicant.

42
43 Commissioner Maks discussed page 11 of 27 of the Staff Report for the
44 subdivision, noting that he agrees with both staff and the applicant that there is no
45 need for that particular street connection.

46

1 On question, Ms. Shotwell advised Commissioner Maks that the pedestrian path
2 is proposed to be five feet within a ten-foot easement.

3
4 Commissioner Maks suggested that the pedestrian path should be six feet, rather
5 than five feet, in width, expressing his opinion that five feet is too narrow for a
6 fully functional bicycle and pedestrian path.

7
8 Ms. Shotwell stated that the five-foot path is subject to reevaluation.

9
10 Commissioner Maks referred to page 20 of 27 of the Staff Report for the
11 subdivision, and requested clarification of Condition of Approval No. 19.

12
13 Ms. Shotwell explained that staff is requesting that the ultimate construction and
14 site development drawings for any improvements occurring within the boundaries
15 of the right-of-way, especially for that pedestrian path, be consistent with the
16 previously-approved City project for temporary pedestrian and lighting
17 improvements along SW 155th Avenue.

18
19 Commissioner Maks pointed out that staff should clarify any revisions to
20 Facilities Review Conditions of Approval.

21
22 Commissioner Johansen referred to page 22 of 25 of the applicant's statement in
23 the Staff Report for the subdivision, and specifically addressed the street design
24 modifications. He noted that the tables for both SW Sierra Court and Street "A"
25 indicate that a sidewalk has been eliminated and a planter strip maintained on one
26 side of the street. He suggested the possibility of sacrificing the planter strips in
27 order to provide sidewalks on both sides of the street.

28
29 Observing that she would like input from Mr. Gustafson with regard to this issue,
30 Ms. Shotwell pointed out that sidewalks are important for safe pedestrian
31 circulation. She explained that a planter strip is necessary to provide street trees
32 within the right-of-way, adding while adequate room is not usually available to
33 accommodate a planter strip, a potential option would be to propose an easement
34 for the street trees outside of the right-of-way.

35
36 Commissioner Barnard requested clarification of why a Traffic Study specifically
37 addressing the intersections of SW Beard Road/SW Murray Boulevard and SW
38 Weir Road/SW Murray Boulevard had not been prepared.

39
40 Ms. Shotwell referred Commissioner Barnard's question to Mr. Gustafson, who
41 stated that SW Murray Boulevard is further from the study area than is required
42 for a Traffic Analysis. He pointed out that if the impact is less than five or ten
43 percent, an intersection is not analyzed.

44
45 Commissioner Maks pointed out that while he has made this request in the past,
46 he hopes that the Traffic Department is seriously reviewing whether the specific

1 studies should be a.m. peak as opposed to p.m. peak. Observing that the traffic in
2 this area is worse in the a.m. peak, he noted that he is expected to base his
3 decision upon what the applicant had been requested to provide, emphasizing that
4 this information addresses p.m. peak. He requested clarification of whether the
5 approval of this subdivision application would actually accomplish the connection
6 to SW 155th Avenue.
7

8 Ms. Shotwell advised Commissioner Maks that this subdivision would provide for
9 one connection at SW Sierra Court.
10

11 Commissioner Pogue expressed concern with safety on SW 153rd Avenue,
12 observing that this narrow street might create issues for emergency vehicles,
13 particularly in the area of the townhomes.
14

15 Ms. Shotwell responded that at this time, this particular application addresses SW
16 Sierra Court, which would provide the only access point along SW 155th Avenue
17 that would be included in this specific application. She explained further that the
18 Board of Design Review would review the townhome project, at which time the
19 SW Diamond Street connection would be reviewed to determine whether it is
20 adequate in terms of dimensions.
21

22 Assistant City Attorney Ted Naemura referred to Section D of the Facilities
23 Review Conditions of Approval, specifically Condition of Approval No. 1, which
24 references a 31-foot dedication, and requested clarification of whether this is the
25 required dedication width standard for a collector street.
26

27 Ms. Shotwell advised Mr. Naemura that she understands that this dedication is for
28 the ultimate future fully constructed and improved street.
29

30 Mr. Naemura referred to Condition of Approval No. 2, observing that it appears to
31 establish what the ultimate pavement area of that street should be, adding that it
32 implies that this street would not be fully paved at this time. He mentioned that
33 he understands that there would be a Waiver of Remonstrance at some future
34 point for the pavement of this area through an LID.
35

36 Ms. Shotwell informed Mr. Naemura that it is her understanding that Conditions
37 of Approval Nos. 1 and 2 would serve the intent of the Transportation Division.
38

39 Referring to the rough proportionality standard, Mr. Naemura explained that this
40 primarily involves when a landowner loses the right to exclude others from his
41 property, more specifically when the public has access to his property, emphasizing
42 that it must be proportionate to the land being given up. He
43 expressed his opinion that proportionality relates to fairness, adding that it would
44 appear to be fairer to pave SW 155th Avenue, bringing the street up to full
45 standards, when future requirements make it necessary, adding that an LID could

1 be a future option. He explained that the requirement for rough proportionality is
2 met by matching the development to the dedication.

3
4 Mr. Gustafson clarified that another issue to consider is that while this fee is a
5 countywide TIF fee for Washington County, this actually involves a tax, rather
6 than a fee, adding that he is not aware that proportionality would apply.

7
8 Commissioner Maks suggested that it is possible that the TIF fees are not
9 adequate if an LID becomes necessary, emphasizing that neither the property
10 owners nor the developers should be required to pay twice.

11
12 Mr. Naemura interjected that the TIF Program is not designed to eliminate all
13 future right-of-way needs, adding that the Waiver of Remonstrance for a future
14 LID meets the requirement to add pavement to this area.

15
16 Commissioner Maks emphasized that this is not the answer provided by Mr.
17 Gustafson, noting that the City has basically determined that this has been funded
18 through TIF fees.

19
20 Observing that this involves essentially the same amount of money, Mr.
21 Gustafson pointed out that it is easier to collect this money through TIF fees.

22
23 Commissioner Johansen mentioned that the TIF fees are based upon trip
24 generations, rather than a proportional share of a potential future LID,
25 emphasizing that it is purely coincidental that the amounts are similar. He pointed
26 out that if a portion of the TIF fees is utilized to fund an LID to bring a local street
27 up to standards, the applicant is not actually paying for the capacity improvements
28 to the system as a whole.

29
30 Commissioner Maks agreed that the TIF fees are not actually adequate to cover
31 necessary improvements, adding that he has an issue with requiring 24 tax payers
32 to each pay \$10,000 for an LID at some future point.

33
34 Commissioner Barnard expressed concern with not requiring the developer to
35 provide all necessary improvements only to force the homeowners in the area to
36 provide and fund these improvements through an LID at a later time. Emphasiz-
37 ing that he does not consider this a fair option, he pointed out that by implement-
38 ing an LID, the City is clearly indicating that the TIF fees are not adequate.

39
40 **APPLICANT:**

41
42 **DOUGLAS MULL**, representing *Dolphin Development*, pointed out that in addi-
43 tion to being a developer, he is a homeowner in the area of SW 155th Avenue,
44 adding that he has been building homes in the Beaverton area for ten years and in
45 the State of Oregon for over 30 years. Pointing out that the applicant has paid a
46 substantial amount of TIF fees in this area over the years, he noted that these fees

1 have been spent elsewhere. Observing that the applicant has also been dealing
2 with the LID issue for a long time, he explained that the current issue involves a
3 24-lot subdivision. Noting that the proposal addresses applicable criteria, he men-
4 tioned that while the road improvement is a regional facility, he does not believe
5 that an LID could be accomplished in that area. Expressing his appreciation of
6 Commissioner Maks' comments with regard to the double jeopardy situation (TIF
7 fees and LIDs), he noted that as a broker, he has been required to disclose all rele-
8 vant information related to the LID to the purchasers over the past seven years.
9 He introduced the Lead Consultant, Mike Miller, of *MGH Associates*, adding that
10 the applicant's engineer and arborist are also available to respond to questions.

11
12 **MIKE MILLER**, representing *MGH Associates*, provided a site analysis map
13 illustrating the five acres of the site. He briefly described the site, including the
14 land itself, the jurisdictional rules and market, as well as the challenges involved
15 in this proposal. He discussed the two tree groves that would be affected,
16 observing that approximately 15% of the trees proposed for removal are either
17 diseased or subject to wind throw, adding that the arborist, Walt Knapp, and the
18 engineer, Kaid McKay, are both available to respond to questions. He referred to
19 an illustration of the site, observing that the larger rear yards would allow the
20 applicant to preserve the larger grove of trees. Emphasizing that the applicant had
21 focused on preserving the larger trees, he pointed out that in addition to planting
22 150 new trees, 50% of the trees over 36 inches would be preserved. He discussed
23 the proposed bicycle/pedestrian pathway, noting that the applicant is not opposed
24 to increasing the width of this pathway from five to six feet within the ten-foot
25 easement. Concluding, he pointed out that both he and the consultants are
26 available to respond to questions.

27
28 Commissioner Johansen referred to the issue with regard to the planter strip
29 versus the sidewalk, noting that his greatest concern is with SW Sierra Court,
30 emphasizing that this is one of the main entrances into the site. Observing that
31 sidewalks have been proposed only on the north side of SW Sierra Court, he
32 questioned the possibility of including sidewalks on the south side, even if this
33 means eliminating the planter strips.

34
35 Mr. Miller mentioned that the applicant had not felt that it was necessary to
36 provide sidewalks on the sides where there are no lots, emphasizing that including
37 these sidewalks would make it necessary to sacrifice some of the landscape area.

38
39 Commissioner Johansen expressed his preference for including these sidewalks,
40 pointing out that he considers this a safety issue.

41
42 Commissioner Maks requested clarification of why the proposal provides for only
43 24 units.

44
45 Observing that each lot required a minimum of 5,000 square feet, Mr. Miller
46 noted that while the average lot size is 6,000 square feet, the largest lots, which

1 are covered by the existing homes, are 13,000 and 11,000 square feet in size. He
2 pointed out that reducing the lot sizes of these two large homes would actually
3 decrease the value of these existing homes, emphasizing that any individual
4 purchasing a 4,000 square foot home expects a large lot. He explained that the
5 remaining 22 homes are close to 5,000 square feet in size, emphasizing that there
6 is no potential for additional lots.

7
8 Commissioner Maks requested clarification of the enforcement of the CC&Rs.

9
10 Mr. Miller advised Commissioner Maks that the CC&Rs are enforced through the
11 Homeowner's Association.

12
13 Commissioner Maks clarified that enforcement of the CC&Rs through the
14 Homeowner's Association involves a civil lawsuit, and questioned whether Mr.
15 Miller is familiar with the history of the enforcement of the CC&Rs within a 24-
16 lot subdivision or the length of time these Homeowner's Association exist.

17
18 Mr. Miller explained that with the existing circumstances, the CC&Rs appeared to
19 be the most appropriate option available to address the preservation and
20 maintenance of these trees.

21
22 Commissioner Maks reiterated that because homeowners have less of a tendency
23 to mess with trees located within tracts, these trees have a greater survival rate,
24 adding that singular trees on private property generally get blown down or messed
25 with by the property owners. Observing that the applicant needs to demonstrate
26 that this is actually a Tree Preservation Plan, he emphasized that he would like
27 clear evidence that the trees proposed for preservation would not be blown down.

28
29 Mr. Miller agreed with Commissioner Maks, and clarified that the applicant has
30 already excluded any trees that are subject to wind throw.

31
32 Observing that the arborist should address this issue, Commissioner Maks
33 suggested that he should also address the trees in the tract highlighted light green
34 that is located kiddy-corner from the water retention area.

35
36 Mr. Miller mentioned that the applicant also has a Conservation Easement that is
37 in tandem with the CC&Rs, observing that this would also provide assistance in
38 the preservation of these trees.

39
40 Referring to Figures 4 and 5, Commissioner Maks noted that while the
41 intersection of SW Beard Road and SW 155th Avenue is currently at Level of
42 Service "B", with a vehicle count of 0.54, in the year 2003, the Level of Service
43 would reach Level of Service "D", with a vehicle count of 0.91. Requesting
44 clarification of what would be causing this increase and whether the Haggan
45 development is involved, he observed that he is aware that this increase would not
46 be caused by the proposed development.

1 Mr. Miller indicated that while he is not certain why the level of service at this
2 intersection would change so significantly, he assumes that a major attraction
3 such as the Haggen Store might be the cause.
4

5 Commissioner Barnard discussed Commissioner Maks' statements indicating that
6 this appears to be a Tree Replacement Program, rather than a Tree Preservation
7 Plan, adding that he questions whether a homeowner would necessarily maintain
8 these trees. He pointed out that a thick canopy of trees might prevent a property
9 owner from growing grass and flowers.
10

11 Chairman Voytilla requested further information with regard to the Homeowner's
12 Association.
13

14 Mr. Mull described the basic activities of an active Homeowner's Association,
15 observing that the CC&R's have evolved to provide for more adequate enforce-
16 ment. He pointed out that the Board is actually able to charge a \$500 per day fee
17 for nuisance activity, emphasizing that this immediately becomes a lien on the
18 home. He noted that as densities increase, better fences make for better neigh-
19 bors, adding that there has been good success, the property values have increased,
20 and they have been able to preserve important trees in a park-like setting, creating
21 an upscale neighborhood. Noting that the Homeowner's Association has been
22 provided with the appropriate tools for adequate enforcement, he mentioned that
23 at some point, they would become responsible for their own neighborhood.
24

25 Chairman Voytilla questioned whether By-Laws would be created for the
26 Homeowner's Association.
27

28 Mr. Mull advised Chairman Voytilla that the By-Laws and CC&R's have already
29 been prepared for the Homeowner's Association, as well as specific language for
30 tree preservation. Observing that the maintenance of the large and mature trees
31 would be provided, he stated that a conservation easement would provide for the
32 replacement trees as well as those that would be preserved, emphasizing that the
33 Homeowner's Association would have the authority to police that activity.
34

35 Mr. Miller mentioned that it would be possible to apply flexible lot setbacks to the
36 five lots on the east.
37

38 Chairman Voytilla questioned whether the applicant had considered submitting an
39 application for a Planned Unit Development (PUD) related to this proposal.
40

41 Mr. Mull observed that while a PUD had been considered, the project involves
42 two different types of neighborhoods, two different types of uses, two different
43 types of buyers and two different types of owners, adding that he had been unable
44 to determine whether it is possible to transfer density from one zone to another.
45 Observing that this involves a philosophical question, he pointed out that from a
46 marketing perspective, it is difficult to include two different uses within this small

1 project, adding that the existing process involves six applications and two public
2 hearings.

3

4 Mr. Miller noted that straddling between the two projects had required a great
5 deal of concentration, adding that this is why the applicant had decided to move
6 forward on the northern lots. Referring to the trees designated for preservation
7 between the two projects, he pointed out that the applicant had attempted to
8 concentrate on preserving the more mature trees, as well as those that exist in the
9 grove located between the two projects.

10

11 Mr. Mull emphasized that he hopes that the project is not jeopardized because the
12 applicant provided mitigation that had not been required.

13

14 Commissioner Johansen pointed out that he had heard no comments with regard
15 to the sidewalk on the south side of SW Sierra Court.

16

17 Chairman Voytilla indicated that he is not concerned with providing a sidewalk
18 on both sides of this street.

19

20 Commissioner Barnard stated that he has a problem with conditioning a design
21 issue with no grounds beyond his own personal choices.

22

23 **WALT KNAPP** introduced himself and described his qualification as a certified
24 arborist and urban forester, observing that he prepared the Tree Preservation Plan
25 for this project.

26

27 Commissioner Maks expressed his concern with removing healthy trees and
28 requested further clarification with regard to the rationale for removing and
29 preserving certain trees.

30

31 Mr. Knapp emphasized that he is in agreement with Commissioner Maks' opinion
32 that trees within a tract should be preserved when possible, observing that some of
33 the issues involve site design, disease conditions, and poor tree structure, observ-
34 ing that while some of these trees are protected as long as they are located within
35 a grove, these trees would generally not survive in what he referred to as an open
36 condition. He provided an illustration of a contiguous tract, observing that
37 although two separate projects are involved, from an environmental and ecologi-
38 cal standpoint the trees are essentially located within the same contiguous tract.

39

40 **PUBLIC TESTIMONY:**

41

42 On question, no member of the public testified with regard to these applications.

43

44 Ms. Shotwell pointed out that the reference to tree mitigation within the CC&R's,
45 specifically Exhibit 5 of the Staff Report for TPP 2002-0001. She suggested that
46 Facilities Review Condition of Approval No. 19, on page 20 of 27 of the Staff

1 Report for SB 2002-0004 be amended, recommending that the retaining walls and
2 preserved trees be eliminated.

3
4 On question, Mr. Naemura indicated that he had no comments with regard to
5 these applications.

6
7 The public portion of the Public Hearing was closed.

8
9 Commissioner Maks discussed the language within the Conditions of Approval
10 for TPP 2002-0001, suggesting that this condition should specifically address the
11 101 Douglas Fir trees as submitted on the plans, and questioned whether the result
12 would be that these 101 trees would be conditioned trees.

13
14 Mr. Naemura requested clarification of what context Commissioner Maks is
15 intending.

16
17 Commissioner Maks pointed out his concern relates to the new tree preservation
18 documents, identifying specific treatment for conditioned trees, including
19 maintenance and enforcement that applies to homeowners.

20
21 Commissioner Barnard mentioned that his concerns had been addressed, express-
22 ing his opinion that a conflict exists with the development of property while
23 removing a huge grove of trees. Emphasizing that he approves of Commissioner
24 Maks' suggestion with regard to conditioning the 101 Douglas Fir Trees, he stated
25 that he would support a motion for approval of all three applications.

26
27 Chairman Voytilla pointed out that while he has no problem with the applications
28 for the Flexible Setback or Subdivision, he is concerned with issues regarding the
29 trees, adding that he supports all three applications. He mentioned that he is also
30 not concerned with the issue of the sidewalk on the south side of SW Sierra Court.

31
32 Commissioner Barnard observed that he had not been aware of the opening and
33 closure of public testimony with regard to these applications.

34
35 Chairman Voytilla advised Commissioner Barnard that although no member of
36 the public had submitted a yellow testimony card, the Public Hearing had been
37 both opened and closed.

38
39 Expressing his opinion that the proposal meets all applicable criteria,
40 Commissioner Johansen stated that he supports all three applications.

41
42 Commissioner Pogue expressed his support of all three applications.

43
44 Commissioner Maks observed that he supports all three applications.

45

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion to approve SB 2002-0004 – Montarosa Single-Family Subdivision, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated July 3, 2002, as amended, including the amendment to the Facilities Review Conditions of Approval, page 20 of 27, as follows:

19. Prior to Site Development permits, the applicant shall submit revised plans illustrating the design of improvements along SW 155th Avenue, including but not limited to grading, ~~retaining walls,~~ **and** pedestrian path alignment, ~~and preserved trees,~~ consistent with the previously approved City projects along SW 155th Avenue.

and providing for a six-foot pedestrian path, rather than five-feet, as shown on the submittal, and Conditions of Approval Nos. 1 through 3.

Motion **CARRIED**, by the following vote:

AYES: Barnard, Johansen, Maks, Pogue and Voytilla.
NAYS: None.
ABSTAIN: None.
ABSENT: Bliss.

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion to approve TPP 2002-0001 – Montarosa Single-Family Subdivision Tree Preservation Plan, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated July 3, 2002, including Conditions of Approval Nos. 1 through 11, with a modification to Condition of Approval No. 9, as follows:

9. The applicant or developer shall install the 101 Douglas Fir trees, ~~planted as tree mitigation,~~ **as submitted on the Tree Mitigation Plan,** at a minimum of five to six feet in height at the time of planting.

Motion **CARRIED**, by the following vote:

AYES: Barnard, Johansen, Maks, Pogue and Voytilla.
NAYS: None.
ABSTAIN: None.
ABSENT: Bliss.

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion to approve FS 2002-0009 – Montarosa Single-Family Subdivision Flexible Setback, based upon the testimony, reports and exhibits, and new

evidence presented during the Public Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated July 3, 2002, including Conditions of Approval Nos. 1 and 2.

Motion **CARRIED**, by the following vote:

AYES: Barnard, Johansen, Maks, Pogue and Voytilla.

NAYS: None.

ABSTAIN: None.

ABSENT: Bliss.

9:00 p.m. – Associate Planner Scott Whyte left.

NEW BUSINESS:

PUBLIC HEARINGS:

1. **APP2002-0010 - APPEAL OF HEARTHSTONE COTTAGES
SUBDIVISION (SB2002-0003)**

(Request for continuance to July 24, 2002)

The Planning Commission will hear an appeal of the Planning Director's decision approving the request for Hearthstone Cottages subdivision provided May 31, 2002. The Planning Director approved a request for a 22-lot subdivision for individual ownership of townhomes, which includes driveway access to SW 135th Avenue. The appellant states a concern that additional traffic and noise will occur as a result of the proposed development. The appellant states access to SW 135th for the proposed development will create a natural "short-cut" for traffic in the area by providing access to and from SW Davies Road and SW 135th Avenue along the private drive, bypassing SW Scholls Ferry Road. The private drive is a looped roadway shared by the proposed development and two other built developments, which currently have access to SW Davies Road. The Planning Director's approval of the request included a condition of approval requiring the applicant to provide a traffic analysis showing the potential impact from "short-cut" traffic and identify the necessary mitigation to address these impacts. Any potential mitigation is to be approved by the Board of Design Review. The appellant is requesting that the applicant provide the additional transportation mitigation, as part of the Subdivision approval, to offset potential traffic impacts from the private drive connecting to SW 135th Avenue. The appellant states that a requirement for such mitigation is necessary to meet the Subdivision approval criteria.

Senior Planner John Osterberg announced that the applicant had requested a continuance of this application.

Commissioner Pogue **MOVED** and Commissioner Maks **SECONDED** a motion that APP 2002-0010 – Appeal of Hearthstone Cottages Subdivision (SB 2002-0003) be continued to a date certain of July 24, 2002.

1 **APPROVAL OF MINUTES:**

2
3 Minutes of the meeting of May 1, 2002, submitted. Commissioner Maks
4 **MOVED** and Commissioner Barnard **SECONDED** a motion that the minutes be
5 approved as written.

6
7 Motion **CARRIED**, unanimously, with the exception of Commissioner Johansen,
8 who abstained from voting on this issue.

9
10 Minutes of the meeting of May 15, 2002, submitted. Commissioner Maks
11 **MOVED** and Commissioner Pogue **SECONDED** a motion that the minutes be
12 approved as written.

13
14 Motion **CARRIED**, unanimously, with the exception of Commissioner Maks,
15 who abstained from voting on this issue.

16
17 Minutes of the meeting of May 22, 2002, submitted. Commissioner Maks
18 **MOVED** and Commissioner Johansen **SECONDED** a motion that the minutes be
19 approved as written.

20
21 Motion **CARRIED**, unanimously, with the exception of Commissioner Barnard,
22 who abstained from voting on this issue.

23
24 Minutes of the meeting of June 26, 2002, submitted. Observing that he had been
25 the only Planning Commissioner in attendance at this meeting that had been
26 continued, Chairman Voytilla accepted the minutes as written.

27
28 **MISCELLANEOUS BUSINESS:**

29
30 Chairman Voytilla announced that no meeting is scheduled for next week.

31
32 Commissioner Johansen requested that staff hold onto documents and information
33 pertaining to future applications until all relevant material can be distributed.

34
35 Senior Planner John Osterberg pointed out that Salem Communications and
36 waived the 120-day requirement and requested a 90-day continuance for
37 reconsideration of their application for the radio tower at the Oregon Episcopal
38 School site.

39
40 The meeting adjourned at 9:05 p.m.